

CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being faxed to Commissioner of Patents at (703) 305-1086 on this 16th day of April, 2003.

Name: DAWN A. madison

Signature: Dawn A Madison

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Craun, et al.

Serial No. 09/839,049

Filed: April 23, 2001

For: ODOR FREE POLYLACTIC ACID
MODIFIED AQUEOUS EMULSION
PAINTS FREE OF VOLATILE
COALESCING ORGANIC SOLVENT)

Examiner: William K. Cheung

Group Art Unit: 1713

Attorney Docket No.: 10529

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PETITION TO WITHDRAW HOLDING OF ABANDONMENT

BASED ON FAILURE TO RECEIVE NOTICE OF ALLOWANCE

Assistant Commissioner for Patents
Washington, D.C. 20231

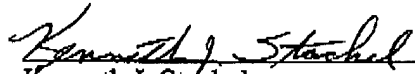
Dear Sir:

Applicants received a Notice of Abandonment mailed from the United States Patent and Trademark Office on March 17, 2003. The Notice indicated that applicants failed to timely pay the required issue fee within the statutory period of three (3) months from the mailing date of the Notice of Allowance and that the issue fee had not been received.

Applicants never received a Notice of Allowance and payment of issue fee form for the captioned patent application. A search on the file wrapper for the captioned application and docket records has indicated that the Notice of Allowance was never received. A copy of the

docket record of the Legal Star Docket System for case 10529 which indicates the non-receipt is attached hereto in the Affidavit of Dawn A. Madison. Based on the foregoing and the enclosed Affidavit of Dawn A. Madison and in accordance with *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C., 1970), a copy of which is enclosed herewith, Applicant respectfully requests withdrawal of the Notice of Abandonment and re-issuance of the Notice of Allowance. In *Delgar* the court granted relief to the patent applicant where his attorneys failed to receive a notice of allowance, even though such notice had, in fact, been mailed by the Patent Office. Indicating that there was difficulty in determining whether notice of allowance was or was not received, the court interpreted the circumstances as constituting a rare situation to be accommodated. Therefore, the court deviated from the strict letter of § 151 in making its determination and issued another Notice of Allowance.

Respectfully submitted,



Kenneth J. Stachel

Attorney for Applicant

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